

Before The  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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In the Matter of )

Policies and Rules Concerning )

Unauthorized Changes of Consumers' )

Long Distance Carriers )

CC Docket No. 94-129

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**REPLY OF SOUTHWESTERN BELL TELEPHONE COMPANY**

Comments in this docket, as in so many regulatory proceedings, have been entirely predictable. Local Exchange Carriers (LECs) and consumer groups support the Commission's attempt to circumscribe the questionable practices of some Interexchange Carriers (IXCs), regarding the changing of customers' PICs (Presubscribed Interexchange Carrier). Some of the interexchange community, on the other hand, argue that existing rules are sufficient, and that more stringent requirements are not needed. AT&T, for example, asserts that "no amount of additional rulemaking by the Commission can deter the outright theft of customers."<sup>1</sup> AT&T does not, however, offer even a single suggestion to aid enforcement of the existing rules.

Unauthorized PIC changes ("slamming") will continue as long as the practice makes money. GTE thus provides the single most salient point in this proceeding by stating that "the Commission must make slamming too expensive a way of doing business."<sup>2</sup> As long as slamming makes money, certain IXCs will continue to slam.

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<sup>1</sup> AT&T at 5.

<sup>2</sup> GTE at 2.

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## I. VERBAL LETTERS OF AUTHORIZATION

Hertz Technologies, Inc. has recommended that LECs should be required to accept a verbal Letter of Authorization (LOA) from an IXC, if the LOA complies with FCC regulations, thereby eliminating the need for IXCs to obtain signed LOAs from customers.<sup>3</sup> By definition, however, a "letter" cannot be verbal. Verbal PIC change authorizations, if allowed, would cause slamming complaints to explode. SWBT has received many bogus LOAs, as have other LECs. The temptation to submit bogus verbal PIC authorizations would be irresistible to some IXCs. As the Commission has stated, additional methods of verification were never intended to substitute for a signed LOA.<sup>4</sup> Carriers have always been expected to produce a signed LOA in PIC disputes, regardless of the method of verification. A signed LOA is the only tangible evidence of end user customer consent. The signed LOA is the only way to verify the validity of a carrier-initiated PIC change. Under no circumstances should the Commission permit verbal PIC change authorizations.

## II. MONTHLY REPORTING AND MONETARY PENALTIES

Pacific Bell and Nevada Bell suggest that LECs should file monthly reports listing total PIC changes, carrier-initiated PIC changes, and complaints received.<sup>5</sup> If the number of complaints

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<sup>3</sup> Hertz at 2.

<sup>4</sup> In the Matter of American Telephone and Telegraph Company Petition for Rulemaking, Notice of Proposed Rulemaking, 6 FCC Rcd 1689 (released March 25, 1991).

<sup>5</sup> Pacific Bell and Nevada Bell at 2.

for a particular IXC exceeds a certain percentage per month, the IXC should pay a penalty.<sup>6</sup>

SWBT agrees with this suggestion in principle, but recommends that IXCs self-report the number of monthly PIC changes and complaints. Such reporting would constitute an administrative and financial burden, which IXCs, rather than LECs, should properly bear. Industry standard codes are available through LECs, and can be used to create a report of IXC-initiated PIC changes, as well as the number of monthly disputes.

Monetary penalties, when appropriate, should be imposed by the Commission, not LECs.<sup>7</sup> SWBT does impose a tariffed Unauthorized PIC (UPIC) Change Charge; this charge was not intended to deter slamming but rather to recover the costs of processing alleged PIC disputes initiated by the end user customer.

In addition to the standard UPIC process, SWBT offers a Tariffed PIC Switchback option, which provides SWBT and participating IXCs flexibility in handling residential and business customers' complaints. PIC Switchback summarily returns the customer's PIC to its earlier status and eliminates the investigation of the dispute. The intent of the PIC Switchback offering is to reduce investigation activities without increasing the number of disputes. SWBT is hopeful that IXCs will not abuse this offering or otherwise allow it to become a profitable way to slam.

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<sup>6</sup> Id.

<sup>7</sup> The Public Utilities Commission of the State of California reaches the same conclusion at 14.

### III. USE LIMITATIONS ON LOAs

Allnet suggests that LOAs be employed for "one time" PIC changes, and that the authorization for making a change be valid for only 90 days from the date of authorization.<sup>8</sup> SWBT concurs. Some IXCs will resubmit an LOA upon learning that the customer has changed to another carrier. In such circumstances, the PIC change is unauthorized. The customer may have consented to the first change, but not the second.

In November of 1994, an IXC submitted to SWBT PIC change requests for which the related LOAs were dated in February and March of that year. SWBT processed the PIC changes, and several customers complained. SWBT was forced to reply, "But you signed an LOA in February or March of 1994."

SWBT and other LECs cannot arbitrarily reject LOAs as being too old, because there is no standard requiring PIC changes to be submitted within a certain time. The Commission should therefore amend its rules, consistent with Allnet's proposal, to invalidate LOAs 91 days after the date of authorization; i.e., beyond 90 days of the secured signature, thus requiring a date on all LOAs.

### IV. LISTING OF CARRIERS ON LOA

SWBT's Comments suggest that, to avoid confusion, all carriers involved in providing a customer's interexchange service should be listed on the LOA.<sup>9</sup> Other commenters believe that the

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<sup>8</sup> Allnet at 4.

<sup>9</sup> SWBT at 4.

LOA should list only the IXC directly providing the service.<sup>10</sup> LDDS suggests that only the IXC providing the billing should be listed.<sup>11</sup> Several recommend listing only the IXC setting the rates.<sup>12</sup> MCI and Sprint both argue that only the IXC with the direct customer relationship be listed.<sup>13</sup>

Anything short of listing all involved carriers on the LOA, however, is almost certain to produce confusion. For example, suppose that only the resale carrier setting the rates is listed on the LOA. Suppose further that another carrier is actually providing the service, while a third handles billing and collection. In such circumstances, the LEC billing page announcing the PIC change will name the carrier providing the service, while the long distance pages of the customer's bill will name the billing and collecting IXC.<sup>14</sup> The consumer, in connection with the PIC change, will thus receive three separate documents listing three different IXCs. The possibility for confusion is obvious, and is a major source of PIC complaints to SWBT. The only solution to this problem is the listing of all IXCs involved on the LOA.

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<sup>10</sup> General Communication, Inc. at 5.

<sup>11</sup> LDDS at 4-5.

<sup>12</sup> AT&T at 16; Hertz at 3; Public Utilities Commission of Texas at 4-5; New York Department of Public Service at 4; Consumer Action at 3.

<sup>13</sup> MCI at 17; Sprint at 8.

<sup>14</sup> SWBT allows carriers the opportunity to indicate when a PIC order is initiated by a reseller. In this case, a general phrase appears on the end user customer's bill, stating that the customer is PIC'd to an independent long distance provider which uses the facilities "of [Long Distance Company's Name]." SWBT, however, does not know the specific reseller associated with the long distance carrier to whom the end user customer is actually PIC'd.

## V. RESELLERS

Only the underlying facilities-based carrier can appropriately monitor and police the PIC change practices of resellers. Because the underlying carrier generally submits all PIC change requests to the LEC, including requests involving resellers, the underlying carrier alone can determine whether a particular PIC change request involves itself or a reseller. Moreover, when a customer (served by a reseller) complains about a PIC change, the LEC's records will show that the customer's carrier is the underlying IXC, not the reseller.<sup>15</sup>

SWBT thus disagrees with Allnet:

"... the Commission should clearly reiterate that the LOA responsibility lies solely on the carrier who directly serves (i.e., the carrier who bills and rates the call) the end user. The primary interexchange carrier is not, and should not, be placed in the position of monitoring and policing the marketing and sales practices of resellers--who are often the primary interexchange carrier's competitors."<sup>16</sup>

Direct service is provided by the underlying carrier. The billing carrier, if different from the underlying carrier, will have nothing to do with the transmission of the call, or with PIC change requests.

Home Owners Long Distance (HOLD) likewise argues that the billing carrier should have primary responsibility for the PIC change practices of resellers. "This is particularly important,"

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<sup>15</sup> See footnote 13.

<sup>16</sup> Allnet at 16.

HOLD says, "in light of the fact that resale carriers typically are not assigned their own CIC codes by local exchange carriers."<sup>17</sup>

LECs do not assign CICs (Carrier Identification Codes); Bellcore does. In the PIC arena, specific identity of resellers is unknown to SWBT. The IXC associated with the CIC to which the end user customer is actually PIC'd is considered SWBT's customer. Thus, in cases of a PIC dispute involving a reseller, the LEC will always look to the underlying IXC, the only party able to monitor and police the sales practices of resellers.

#### VI. CONCLUSION

PIC change disputes involve customers and their IXCs, yet LECs are invariably thrust into the center of things, and are often incorrectly blamed for slamming. LECs cannot stop this practice, nor solve this problem. Only the Commission or the IXCs can. SWBT agrees with GTE that the Commission should not adopt any additional rules which would place LECs in the role of mediator or problem-solver.<sup>18</sup> PIC change disputes should be resolved directly between the IXC and the customer, with Commission intervention, when needed.

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<sup>17</sup> HOLD at 10.

<sup>18</sup> GTE at 6.

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**CERTIFICATE OF SERVICE**

I, Liz Jensen, hereby certify that the foregoing  
Reply of Southwestern Bell Telephone Company in Docket 94-  
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